

### **DETAILED ACTION**

This Office Action replaces the office action of 5/09/2008.

Claims 1-13 have been cancelled by applicant, new claims 14-33 submitted in an amendment submitted on 07/27/06 are acknowledged by the Examiner.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the limitation "...either of the sensors." in page 9 of the claims. There is insufficient antecedent basis for this limitation in the claim, as there were 3 sensors previously mentioned. Additionally claim 20 appears to contain spelling and/or grammar errors which render the claim unclear.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 18-21, 23, 25, 26, 28, and 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Breed US 20030015898.

Re claims 14, 16, 18, and 19, Breed discloses the invention as claimed. Note the headrest controller 250 (Par [0030] describes the crash sensor sequence), the headrest movement (seen in Figs. 9A and 9B), a head positioning detecting unit comprising a capacitive (par [0057] discloses the sensors as capacitive systems) first sensor 320, 321 for detecting a distance between a head (object), and a second sensor 350 for detecting contact between the head (object) and headrest, both located in the front part of a headrest, a control circuit (not numbered, in par [0061] Breed discloses that the control module comprises circuitry, considered to meet the limitation of a control circuit) which stops the headrest based on a detection signal from either of the sensors (see par [0064]).

Re claims 20, 21, and 23, see above. Additionally, Breed discloses a crash detecting sensor 210, 211, 212 for detecting or predicting a crash to the rear of a vehicle (see Fig. 2), a headrest driving mechanism 360, 370 for moving the headrest;

wherein the previously described control circuit alters or stops movement of the headrest driving mechanism based on input from the detection unit (Par [0059] describes the control module stopping the headrest when state of contact is detected); and that the headrest can be automatically reset after being deployed in Par [0065].

Re claim 25, Breed further discloses that the first and second sensor each output a detection output signal (see Par [0059]), and wherein the control circuit stops the headrest based on whichever signal occurs earlier (in page 3, Par [0059], Breed discloses the headrest stopping once the second sensor switch is closed, and if it is open the signal from the first sensor appears to govern the movement).

Re claims 26, 28, 30, 31, 32, and 33, see above rejections (headrest 111 has a front and a back), in Par. [0059] Breed discloses that the first sensor which can detect a longitudinal distance from the headrest to an occupant's head, and since he does not say otherwise it is assumed that the sensor can detect a distance between a moving head and the headrest; Breed further discloses the electronic control circuit containing a timer in Par [0059] (a microprocessor containing a timer) and causing the front portion to move based on a predetermined algorithm.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 17, 22, 24, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed US 20030015898.

Re claims 15, 17, 22, 24, 27, and 29, Breed discloses the claimed invention according to claim 14 except for a plurality of first and second sensors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include more than one first and second sensor, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ALEX whose telephone number is (571)270-3740. The examiner can normally be reached on M-TH, 7:30 am to 5:00 pm; F, 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dunn David can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

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JA 06/24/08

/David Dunn/  
Supervisory Patent Examiner, Art Unit 3636